

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 138

An Act to amend and reenact § 63.1-248.7:2 of the Code of Virginia, relating to residential facilities for juveniles.

[H 1639]

Approved March 13, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 63.1-248.7:2 of the Code of Virginia is amended and reenacted as follows:

§ 63.1-248.7:2. Background check required; residential facilities for juveniles.

A. As a condition of employment, volunteering or providing services on a regular basis, every residential facility for juveniles which is regulated or operated by the Department of Social Services, the Department of Education, *the Department of Military Affairs*, or the Department of Mental Health, Mental Retardation and Substance Abuse Services shall require any individual who (i) accepts a position of employment at such a facility who was not employed by that facility prior to July 1, 1994, (ii) volunteers for such a facility on a regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1, 1994, or (iii) provides contractual services directly to a juvenile for such facility on a regular basis and will be alone with a juvenile in the performance of his duties who did not provide such services prior to July 1, 1994; to submit to fingerprinting and to provide personal descriptive information, to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The residential facility shall inform the applicant that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the applicant's fitness to have responsibility for the safety and well-being of children. The applicant shall provide the residential facility with a written statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth. Prior to permitting an applicant to begin his duties, the residential facility shall obtain the statement or affirmation from the applicant and shall submit the applicant's fingerprints and personal descriptive information to the Central Criminal Records Exchange.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward it to the state agency which operates or regulates the facility with which the applicant is affiliated. The state agency shall, upon receipt of an applicant's record lacking disposition data, conduct research in whatever state and local record-keeping systems are available in order to obtain complete data. The state agency shall report to the facility whether the applicant meets the criteria to have responsibility for the safety and well-being of children based on whether or not the applicant has ever been convicted of or is the subject of pending charges for the following crimes: murder as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2, abduction for immoral purposes as set out in § 18.2-48, assault and bodily wounding as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as set out in § 18.2-58, extortion by threat as set out in § 18.2-60, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2, possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, pandering as set out in § 18.2-355, crimes against nature involving children as set out § 18.2-361, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, failure to secure medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in § 18.2-374.1, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 of Chapter 8 of Title 18.2, as set out in § 18.2-379, or an equivalent offense in another state. If the applicant is denied employment, or the opportunity to volunteer or provide services at a facility because of information appearing on his criminal history record, and the applicant disputes the information upon which the denial was based, upon written request of the applicant the state agency shall furnish the applicant the procedures for obtaining his criminal history record from the Federal Bureau of Investigation. If the applicant has been permitted to provide services pending receipt of the report, the residential facility is not precluded from suspending the applicant from his position or denying the applicant unsupervised access to clients pending a final determination of the applicant's fitness to have responsibility for the safety and well-being of children. The information provided to the facility shall not be disseminated except as provided in this section.

B. Those individuals listed in clauses (i), (ii) and (iii) of subsection A shall also authorize the facility to obtain a copy of information from the central registry maintained pursuant to § 63.1-248.8 on any

investigation of child abuse or neglect undertaken on him. The applicant shall provide the residential facility with a written statement or affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The facility shall submit the request for information to the central registry prior to permitting an applicant to begin his duties. The facility shall obtain a copy of the information from the central registry within twenty-one days of the applicant beginning his duties. The provisions of this subsection also shall apply to every residential facility for juveniles which is regulated or operated by the Department of Juvenile Justice.

C. The Boards of Social Services, Education, Juvenile Justice, *the Department of Military Affairs* and Mental Health, Mental Retardation and Substance Abuse Services may promulgate regulations to comply with the provisions of this section. Copies of any information received by a facility pursuant to this section shall be available to the agency that regulates or operates the facility but shall not be disseminated further. The cost of obtaining the criminal history record and the central registry information shall be borne by the employee or volunteer unless the juvenile facility, at its option, decides to pay the cost.